

Application Serial No. 10/073,571

Remarks After Final dated May 31, 2006

Reply to Final Office Action dated April 20, 2006

## **REMARKS**

By this response, claims 1-26 are pending. All remain as originally or previously presented. Reconsideration is requested as is a timely Notice of Allowance. Substantively, the Examiner rejects all claims, other than 10 and 11, as anticipated under 35 U.S.C. §102(e) by U.S. Patent Publication No. 2002/0174206 to Moyer et al. He rejects the independent claims 1, 17, 18, 20 and 21 as non-enabled under 35 U.S.C. §112, first paragraph.

Submitted herewith is an inventor affidavit under 37 C.F.R. §1.131. Generally, it provides evidence attesting to the conception and reduction to practice of the instant invention before the effective date (May 21, 2001) of the Moyer reference. Among other things, it references an original disclosure of the invention and a log of source code dating the introduction of the invention into software for inclusion in an eventual actual or proposed product. Collectively, the inventors swear behind Moyer and remove it as relevant prior art. For at least this reason, the anticipation rejection is submitted as infirm and, because no other art is cited, the claims are submitted as allowed.

Regarding non-enablement, the Examiner states the specification only “remotely” mentions the negative limitation “regardless of whether the computing device is networked or maintains a networked connection” and such renders the claim non-enabled. To the extent the Examiner agrees, the Applicant can remove this language from the claim by way of Examiner’s amendment. It was only added to argue past Moyer and Moyer, by the attached affidavit, is no longer relevant.

To the extent the language remains in the claims, the Applicant submits the specification is enabled. As the law has lengthily held, a:

decision on the issue of enablement requires determination of whether a person skilled in the pertinent art, using the

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knowledge available to such a person and the disclosure in the patent document, *could make and use the invention without undue experimentation*. It is not fatal if some experimentation is needed, for the patent document is not intended to be a production specification. *Emphasis added, Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931, 941, 15 USPQ2d 1321, 1329 (Fed. Cir. 1990).<sup>1</sup>

In the instant matter, to the extent the Examiner himself has examined the claims with the foregoing negative limitation, it is evidence the Examiner (a skilled artisan) understands what the claim means. It is also evidence the Examiner has done so without undue experimentation, because it is assumed the Examiner has not conducted any experiments regarding the invention.

Also, to the extent the specification teaches what the Examiner says it does, e.g., “aspects of the present invention can also be utilized in embodiments wherein the computing devices are not interconnected,” *Applicant’s specification, p. 4, ll. 16-20*, it is submitted that artisans of skill in the field of computers, computer software and information technology (IT), know exactly what this means without undue experimentation. Namely, computer technicians, software authors, IT professionals, etc., understand that when language states that invention can be used at a time when “the computing devices are not interconnected,” readily know that the computers need not be connected. No connections also translates to

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<sup>1</sup> The Northern Telecom case goes on to further show that “when the challenged subject matter is a computer program that implements a claimed device or method, enablement is determined from the viewpoint of a skilled programmer using the knowledge and skill with which such a person is charge.” *Id.* They further held that “a programmer of reasonable skill could write a satisfactory program [to carry out the method steps of source data capture].” *Id.*, 15 USPQ2d at 1330. Thus, if skilled programmers are charged with such great skill in 1990, surely they can now determine what constitutes the claimed negative limitation “without” a networked connection and do so without undue experimentation.

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no networks, for example. Figure 1 also shows a representative client and server. The specification teaches operating systems and sample source code throughout and, at *page 5, second full paragraph of the Applicant's specification*, topology, protocols, a LAN, a “collection of LANs cooperating to form a larger network, such as the Internet” and a transmission medium 26 related to same are disclosed. It is disingenuous, at best, to now claim that skilled artisans dealing with claims as complex as installation and removal of peripheral devices on computing systems are somehow hard pressed to understand what it means to do so without basic or rudimentary regard to a network connection, without undue experimentation. Please also see the attached affidavit for extrinsic evidence of the level of skill in the art at the time of filing, especially before the time of filing because the affidavit attests to a time before May 21, 2001.

Moreover, the specification broadly states the “undesirable” problem of “continually maintaining such support information [of a peripheral device] on a computing device” when the relationship between the computing device and the peripheral is “transient in nature.” *Applicant's specification, p. 1, final paragraph.* At *Applicant's specification, p. 20, final paragraph*, it is touted that “mobile” persons are now able to perform the invention “without having to involve an administrator, for example, on configuration issues.” Expressly, this relates to the configuration of computing devices. Intuitively, this means that computing devices need not be networked or have other configuration issues. It is respectfully submitted that skilled artisans understand the negative limitation under consideration, without any undue experimentation, and the claims are fully enabled. Reconsideration is submitted.

In summary, each ground of rejection or objection has been addressed and overcome. Accordingly, since all outstanding issues have been addressed, an early Notice of Allowance is earnestly solicited. ***To the extent any fees are due, although none are believed due, the undersigned authorizes their deduction from Deposit Account No. 11-0978.***

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***Finally, the Applicant maintains their request to change the attorney document number of record from 971-150 to 1363-010.*** The docket number changed when the most recent Power of Attorney went into effect.

Respectfully submitted,

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